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PATENT
Attorney Docket No.: P0012US20

On April 24, 2003

By: Timothy L. Smith
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Scott A. LESLEY et al.

Application No.: 09/990,099

Confirmation No.: 1291

Filed: November 21, 2001

For: SOLUBILITY REPORTER GENE
CONSTRUCTS

Art Unit: 1636

Examiner: Daniel M. SULLIVAN

**RESPONSE TO SECOND
RESTRICTION REQUIREMENT**

US Patent and Trademark Office
Arlington VA 22202

This is submitted in response to the second Restriction Requirement, dated December 24, 2002. A petition to extend the time for response for three months, from January 24, 2003 to and including April 24, 2003, is enclosed.

Preliminary Amendment and Request for Correction of Filing Receipt

On April 9, 2002, Applicants filed by facsimile a Preliminary Amendment and Request for Correction of Filing Receipt. Specifically, Applicants requested that the filing receipt be corrected to reflect their priority claim to Ser. No. 60/327,575, filed November 21, 2000, and that the first paragraph of the application be amended to correctly reflect the priority claim. In their response to the previous Restriction Requirement (filed October 22, 2002), Applicants inquired as to the status of this Preliminary Amendment. In response to this inquiry, the Examiner has indicated that the PTO file does not contain this Preliminary Amendment. Accordingly, Applicants have attached a copy of the April 9, 2002 Preliminary Amendment, together with a facsimile confirmation page which indicates that the facsimile was received at the

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USPTO on the date indicated on the Certificate of Facsimile Transmission. Applicants respectfully request entry of the Preliminary Amendment, and the issuance of a corrected Filing Receipt which correctly shows Applicants' priority claim.

Response to Restriction Requirement and Request for Reconsideration

The instant restriction requirement places the pending claims into eight groups, as follows:

Group I:	Claims 1-33
Group II:	Claims 34-36
Group III:	Claims 37-62
Group IV:	Claims 37-55 and 63
Group V:	Claims 37-55 and 64-66
Group VI:	Claims 37-55 and 67-70
Group VII:	Claims 37-55, 71 and 72
Group VIII:	Claims 73-76

Each of Groups I and III-VII is further restricted on the basis of the particular nucleic acid sequence used in the host cell, polynucleotide or method.

Applicants hereby elect **Group I, claims 1-33**. With response to the species election requirement, Applicants hereby elect the *E. coli* *ibpA* promoter (SEQ ID NO:21 and also SEQ ID NO:23). Claims that are readable upon the elected Group and species are claims 1-8, 10-18, and 22-33.

The election is made without traverse, with the understanding that, as stated in the Restriction Requirement at pages 6-7, the restriction requirement is subject to the nonallowance of the linking claims 1 and 37. If a claim is found to be allowable with respect to the elected species of nucleic acid, the generic claims will then be examined.

To the extent that this procedure is not followed, Applicants maintain their traversal as presented in the October 22, 2002 response, and Applicants reserve the right to petition for review of the restriction requirement at any time prior to appeal.